

REMARKS/ARGUMENTS

DOUBLE PATENTING IN VIEW OF USP 6,120,676

Claims 45, 46, 62, 70, and 71 are rejected on the ground of nonstatutory obviousness-type double patenting in view of claim 101 of US patent 6,120,676. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claims 46 and 62 on amended claim 45 and of claim 71 on amended claim 70.

Claims 47-49 and 72-74 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claims 107, 67 and 50 of US patent 6,120,676. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claims 47-49 on amended claim 45 and of claims 72-74 on amended claim 70.

Claims 50 and 75 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claim 104 of US patent 6,120,676. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claim 50 on amended claim 45 and of claim 75 on amended claim 70.

Claims 52 and 76 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claims 28 and 101 of US patent 6,120,676. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claim 52 on amended claim 45 and of claim 76 on amended claim 70.

Claims 54 and 77 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claims 30 and 101 of US patent 6,120,676.

This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claim 54 on amended claim 45 and of claim 77 on amended claim 70.

Claims 56-58, 60, 79, 80, 81 and 82 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claims 107 and 85 of US patent 6,120,676. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claims 56-58 and 60 on amended claim 45 and of claims 79-82 on amended claim 70.

Claims 63, 64, 85 and 86 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claims 101 and 11 of US patent 6,120,676. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claims 63 and 64 on amended claim 45 and of claims 85 and 86 on amended claim 70.

DOUBLE PATENTING IN VIEW OF USP 6,607,658

Several of the claims pending in the present application are rejected on the ground of nonstatutory obviousness-type double patenting in view of various claims of US patent 6,607,658. A terminal disclaimer is provided herewith to obviate this rejection.

DOUBLE PATENTING IN VIEW OF USP 6,551,494

Claims 45, 62 and 70 are rejected on the ground of nonstatutory obviousness-type double patenting in view of claim 1 of US patent 6,551,494. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependency of claim 62 on amended claim 45.

Claims 47-49 and 72-74 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claims 10 and 6 of US patent 6,551,494. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claims 47-49 on amended claim 45 and of claims 72-74 on amended claim 70.

Claims 50 and 75 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claim 12 of US patent 6,551,494. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claim 50 on amended claim 45 and of claim 75 on amended claim 70.

Claims 52 and 76 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claim 4 of US patent 6,551,494. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claim 52 on amended claim 45 and of claim 76 on amended claim 70.

Claims 54 and 77 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claims 10 and 16 of US patent 6,551,494. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claim 54 on amended claim 45 and of claim 77 on amended claim 70.

Claims 56-58, 60, 79, 80, 81 and 82 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claims 1 and 26 of US patent 6,551,494. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claims 56-58 and 60 on amended claim 45 and of claims 79-82 on amended claim 70.

Claims 59 and 81 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claims 1 and 28 of US patent 6,551,494. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claim 59 on amended claim 45 and of claim 81 on amended claim 70.

Claims 61 and 83 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claims 1 and 32 of US patent 6,551,494. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claim 61 on amended claim 45 and of claim 83 on amended claim 70.

Claims 63, 64, 85 and 86 are rejected on the ground of nonstatutory obviousness-type double patenting in further view of claims 1 and 14 of US patent 6,551,494. This rejection is overcome in view of the amendments to each of claims 45 and 70, and the dependencies of claims 63 and 64 on amended claim 45 and of claims 85 and 86 on amended claim 70.

CLAIM REJECTIONS UNDER 35 USC 103

Claims 45, 46, 50, 51, 53-55, 61, 63-71, 75, 77, 78, 83, and 85-88 are rejected under 35 USC 103(a) as being unpatentable over the English translation of Nakashima et al. (JP 02-326247) in view of Asa et al. (US 4,917,274) and Bratten et al. As now amended, claims 45, 46, 50, 51, 53-55, 61, 63-71, 75, 77, 78, 83, and 85-88 are each allowable, because no combination of Nakashima et al., Asa et al. and Bratten et al. teaches or suggests all of the elements of Applicants' invention. Specifically, each of Applicants' amended claims 45, 46, 50, 51, 53-55, 61, 63-71, 75, 77, 78, 83, and 85-88 now requires that the piercing

member and the sensor are mechanically attached together to form an integrated unit, in addition to features previously recited.

Claims 47-49 and 72-74 are rejected under 35 USC 103(a) as being unpatentable over the English translation of Nakashima et al. (JP 02-326247) in view of Asa et al. (US 4,917,274) and Bratten et al., and in further view of Diebold et al. (US 5,437,999). Claims 47-49 are allowable as being dependent upon claim 45 for the reasons set forth above. Claims 72-74 are allowable as being dependent upon claim 70 for the reasons set forth above. That is, no combination of Nakashima et al., Asa et al., Bratten et al. and Diebold et al. teaches or suggests all of the elements of Applicants' invention. Specifically, each of Applicants' claims 47-49 and 72-74 now requires that the piercing member and the sensor are mechanically attached together to form an integrated unit, in addition to features previously recited.

Claims 62 and 84 are rejected under 35 USC 103(a) as being unpatentable over the English translation of Nakashima et al. (JP 02-326247) in view of Asa et al. (US 4,917,274) and Bratten et al., and in further view of Wojciechowski et al. (US 5,873,990). Claims 62 and 84 are allowable as being dependent respectively upon claims 45 and 70 for the reasons set forth above. That is, no combination of Nakashima et al., Asa et al., Bratten et al. and Wojciechowski et al. teaches or suggests all of the elements of Applicants' invention. Specifically, each of Applicants' claims 62 and 84 now requires that the piercing member and the sensor are mechanically attached together to form an integrated unit, in addition to features previously recited.

Claims 45-55, 61, 63-65, 67-78, 83 and 85-88 are rejected under 35 USC 103(a) as being unpatentable over Diebold et al. in view of Smith (US 5,108,889), and Strauss et al. (US 5,089,320). As now amended, Claims 45-55, 61, 63-65, 67-

78, 83 and 85-88 are allowable because no combination of Diebold, Smith and Strauss teaches or suggests all of the elements of Applicants' invention. Specifically, each of Applicants' amended claims 45-55, 61, 63-65, 67-78, 83 and 85-88 now requires that the piercing member and the sensor are mechanically attached together to form an integrated unit, in addition to features previously recited.

At page 25 of the Office Action, the Examiner relies upon Smith as teaching to make a lancet integral with a hand-held sensing device. However, Smith only teaches to confine a spring-shaped lancet 384 to a hollow lancet compartment 382 of a sensor 352. The lancet 384 taught by Smith et al. is not mechanically attached together with the sensor 352, as now required at each of Applicants' claims 45-55, 61, 63-65, 67-78, 83 and 85-88. The lancet 384 of Smith is free to jiggle around within the compartment 352 and even to fall out at least during certain stages of assembly of the device. The mechanical attachment of the piercing member and the sensor of Applicants' advantageous invention prevents this kind of jiggling around or dissociation of the piercing member of the integrated device. Particularly when being utilized in a self care environment, it is advantageous to have mechanically attached component parts that will be reliably available to the self care patient when needed to carry out an effective treatment regimen.

Claims 56-58, 60, 79, 80 and 82 are rejected under 35 USC 103(a) as being unpatentable over Diebold et al. in view of Smith (US 5,108,889), and Strauss et al. (US 5,089,320), and Anderson (US 5,279,294). Claims 56-58 and 60 are dependent upon claim 45, and claims 79, 80 and 82 are dependent upon claim 70. Thus, each of these claims is allowable for the reasons set forth above. That is, no combination of Diebold et al., Smith, Strauss et al. and Anderson teaches or suggests all of the elements of Applicants' invention. Specifically, each of

Applicants' claims 56-58, 60, 79, 80 and 82 now requires that the piercing member and the sensor are mechanically attached together to form an integrated unit, in addition to features previously recited.

Claims 62 and 84 are rejected under 35 USC 103(a) as being unpatentable over Diebold et al. in view of Smith (US 5,108,889), and Strauss et al. (US 5,089,320), and Wojciechowski et al. (US 5,873,990). Claims 62 and 84 are allowable as being dependent respectively upon claims 45 and 70 for the reasons set forth above. That is, no combination of Diebold et al., Smith, Strauss et al. and Wojciechowski et al. teaches or suggests all of the elements of Applicants' invention. Specifically, each of Applicants' claims 62 and 84 now requires that the piercing member and the sensor are mechanically attached together to form an integrated unit, in addition to features previously recited.

In view of the above, it is respectfully submitted that the application is now in condition for allowance. The Examiner's reconsideration and further examination are respectfully requested.

The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 50-2019. A duplicate page is enclosed.

Respectfully submitted,
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Dated: February 21, 2007

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Applicants' claims 56-58, 60, 79, 80 and 82 now requires that the piercing member and the sensor are mechanically attached together to form an integrated unit, in addition to features previously recited.

Claims 62 and 84 are rejected under 35 USC 103(a) as being unpatentable over Diebold et al. in view of Smith (US 5,108,889), and Strauss et al. (US 5,089,320), and Wojciechowski et al. (US 5,873,990). Claims 62 and 84 are allowable as being dependent respectively upon claims 45 and 70 for the reasons set forth above. That is, no combination of Diebold et al., Smith, Strauss et al. and Wojciechowski et al. teaches or suggests all of the elements of Applicants' invention. Specifically, each of Applicants' claims 62 and 84 now requires that the piercing member and the sensor are mechanically attached together to form an integrated unit, in addition to features previously recited.

In view of the above, it is respectfully submitted that the application is now in condition for allowance. The Examiner's reconsideration and further examination are respectfully requested.

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